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8   Adobe Systems Inc.

9   UNITED STATES DISTRICT COURT

10   NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

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12 IN RE: HIGH-TECH EMPLOYEE   **Master Docket No. 11-CV-2509-LHK**
    ANTITRUST LITIGATION
13
                                         DECLARATION OF LIN W. KAHN
14   THIS DOCUMENT RELATES TO: **IN SUPPORT OF DEFENDANTS'**
                                         JOINT RESPONSE TO PLAINTIFFS'
15   ALL ACTIONS   **ADMINISTRATIVE MOTION TO**
                                         FILE UNDER SEAL
16
                                         Date Consolidated Amended Compl. Filed:
17   September 13, 2011

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1   I, Lin W. Kahn, declare as follows:

2   1.   I am an attorney with the law firm of Jones Day, counsel for Defendant Adobe

3   Systems Inc. ("Adobe") in the above-captioned action. I am admitted to practice law before this

4   Court. I submit this declaration in support of Defendants' Joint Response to Plaintiffs'

5   Administrative Motion to File Under Seal. As an attorney involved in the defense of this action,

6   unless otherwise stated, I have personal knowledge of the facts stated in this declaration and if

7   called as a witness, I could and would competently testify to them.

8   2.   I have reviewed Plaintiffs' Opposition to Defendants' Joint Motions *In Limine*

9   ("Opposition"), the Declaration of Anne B. Shaver in Support of the Opposition ("Shaver Decl."),

10 and attached exhibits.

11   3.   As described below, the information requested to be sealed contains or

12 summarizes Adobe's compensation and recruiting data, practices, strategies and policies. Adobe

13 has designated this information as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant

14 to the Protective Order in this case. (ECF No. 107).

15   4.   The October 9, 2012 Declaration of Donna Morris In Support of Defendants' Joint

16 Response to Plaintiffs' Administrative Motion to File Under Seal (ECF No. 196) ("10/9/2012

17 Morris Decl."), the January 9, 2014 Declaration of Jeff Vijungco in Support of Motion to Seal

18 (ECF No. 578), and the Declaration of Rosemary Arriada-Keiper in Support of Motion to Seal

19 (ECF No. 579) establish that Adobe's compensation data, practices, strategies and policies, as

20 well as its recruiting data, practices, strategies and policies (such as the information sought to be

21 redacted below), are confidential and commercially sensitive.   As stated in these declarations, it

22 is Adobe's practice to keep such information confidential, for internal use only, and not to

23 disclose them to the public.

24   5.   Moreover, these declarations establish that the public disclosure of this

25 information would competitively harm Adobe, including impairing its competitive position in

26 recruiting, hiring, and compensating employees. Ms. Arriada-Keiper and Mr. Vijungco declared

27 that Adobe derives independent economic value from keeping its compensation data and

28 compensation, recruiting and hiring practices, strategies, and policies confidential, including

- 1 -

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1   keeping it from other persons, entities, and/or competitors who could obtain economic value from

2   its disclosure or use.

3   6.   Furthermore, as stated in the above declarations, the public disclosure of this

4   information, created for internal use, would give third-parties insights into confidential and

5   sensitive aspects of Adobe's operations and deprive Adobe of its investment in developing these

6   practices, strategies, and policies. These declarations further establish that such disclosure would

7   give other entities an unearned advantage by giving them the benefit of knowing how Adobe

8   compensates employees and Adobe's compensation, recruiting, and hiring practices, strategies,

9   and policies.

10   7.   In addition to the above, Adobe's declarations filed in support of the Opposition to

11 Plaintiffs' Motion for Class Certification also establish the confidentiality of Adobe's

12 compensation and recruiting data, practices, strategies and policies. In particular, the Declaration

13 of Donna Morris of Adobe Systems Inc. in Support of the Opposition to Plaintiffs' Motion for

14 Class Certification (ECF No. 215, Exhibit 14) ("11/9/2012 Morris Decl."), paragraph 3,

15 establishes that Adobe's salary and compensation data, policies and strategies are confidential and

16 that public dissemination of that information could cause Adobe competitive harm. The

17 Declaration of Jeff Vijungco of Adobe Systems Inc. in Support of the Opposition to Plaintiffs'

18 Motion for Class Certification (ECF No. 215, Exhibit 15) ("Vijungco Decl."), paragraph 3,

19 similarly establishes that Adobe's recruiting and hiring data, policies and strategies are

20 confidential and that public dissemination of that information could cause Adobe competitive

21 harm.

22   8.   Specifically, Adobe seeks to keep the redacted parts of the following documents

23 under seal:

24 **December 6, 2013 Amended Expert Report of Edward A. Snyder, Ph.D. (Shaver Dec.**

25 **Ex. 14)**

26   9.   Adobe seeks to seal the following portions of the December 6, 2013 Amended

27 Expert Report of Edward A. Snyder, Ph.D. (proposed redacted version previously submitted at

28 ECF No. 842):

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1   a) Redacted portion of paragraph 36 and footnote 15 on pages 17 to 18 contain

2   confidential information regarding Adobe's recruiting and hiring strategies and

3   practices.

4   **December 11, 2013 Rebuttal Report of Matthew Marx (Shaver Decl. Ex. 17)**

5   10.   Adobe seeks to seal the following portions of the December 11, 2013 Rebuttal

6 Report of Matthew Marx (proposed redacted version previously submitted at ECF No. 832-2):

7   a) Exhibit 3 reveals confidential information about the number of employees at

8   Adobe in a specific position.

9   **December 11, 2013 Reply Expert Report of Edward E. Leamer, Ph.D. (Shaver Decl.**

10   **Ex. 19)**

11   11.   Adobe seeks to seal the following portions of the December 11, 2013 Merits Reply

12 Expert Report of Edward Leamer, Ph.D. (proposed redacted version previously submitted at ECF

13 No. 856-10):

14   a) Page 22, Figure 6 reveals confidential information about the annual distribution of

15   compensation by year.

16   b) Pages 23 to 24, paragraph 42 and Figure 7 contain confidential Adobe information

17   related to Adobe's acquisition of Macromedia and compensation for Macromedia

18   employees as compared to Adobe employees and Adobe salary ranges.

19   c) Page 44, Figure 14 reveals confidential Adobe compensation information about the

20   average compensation of Adobe Technical Class members.

21   d) Pages 76 to 77, Appendix A contains confidential Adobe compensation

22   information, including the salary range for a specific job title, the age of

23   employees in that title, and salary for specific individuals.

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1   I declare under penalty of perjury under the laws of the United States that the foregoing is

2   true and correct. Executed this 21st day of April 2014 in San Francisco, California.

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By: */s/ Lin W. Kahn*

5   Lin W. Kahn

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Kahn Declaration ISO Defs.'
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